

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
CIVIL ACTION NO. 3:18-CV-00188-GCM**

**JAMES C. MCNEILL,**

**Plaintiff,**

**v.**

**CEDRIC GRAHAM,  
SUSAN MORRISON,  
KARIEM LANE,**

**Defendants.**

**ORDER**

**THIS MATTER** is before the Court on the Plaintiff's *pro se* "Response to the Court's May 4, 2021 Order Regarding Plaintiff's Request that Subpoenas and Writs be Issued for Witnesses," (Doc. No. 107).

The incarcerated Plaintiff, who is proceeding *in forma pauperis*, filed this action pursuant to 42 U.S.C. § 1983 with regards to the alleged excessive force at the Lanesboro Correctional Institution. Trial has been scheduled for June 16, 2021. (Doc. No. 99).

The Plaintiff previously filed a Motion seeking to subpoena as trial witnesses: North Carolina Department of Public Safety ("NCDPS") inmates Jessie Lee Grooms, Selran Watford, and Brandon Smith; and eight NCDPS employees. (Doc. No. 96). On May 4, 2021, the Court issued an Order granting the Motion as to inmates Grooms and Watford;<sup>1</sup> denying as to inmate Smith without prejudice for the Plaintiff to provide additional identifying information; and

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<sup>1</sup> The Court had ordered defense counsel to show cause why subpoenas *ad testificandum* should not be issued for inmates Grooms and Watford's attendance at trial, but this was withdrawn because the Court learned that these witnesses are available to appear by video. (Doc. No. 101).

denying as to the NCDPS employees because the Plaintiff had failed to demonstrate his ability to pay the cost of their attendance at trial. (Doc. No. 100).

The Plaintiff has now filed the instant “Response” which is construed as a renewed Motion for the issuance of witness subpoenas for trial.

First, the Plaintiff provides additional identifying information for inmate Smith and he names two additional inmates who he seeks to call as trial witnesses. The Plaintiff states that inmate Smith is a Black male, around 30 years old, from Greensboro in Guilford County, who was released from NCDPS in 2018 and was subsequently reincarcerated. The Court searched the NCDPS website and has been unable to locate any inmate satisfying these criteria. The renewed Motion will therefore be denied as to inmate Smith. The Plaintiff further seeks to call as witnesses “Jhon Griffin,” who is incarcerated at Polk C.I.; and William, a Black male from Fayetteville in Cumberland County, who was an inmate janitor at Lanesboro’s Lower Richmond unit on October 27, 2017. A search of the NCDPS website reveals an inmate named John L. Griffin, Jr., offender number 0603117, who is presently incarcerated at Polk C.I. The Motion will be granted as to this witness, and defense counsel will be instructed to arrange for this inmate’s appearance as a trial witness by video. If this is not the individual whom the Plaintiff intends to call as a witness, he shall so inform the Court within five (5) days of this Order. The Motion will be denied, however, as to inmate William, as the information the Plaintiff has provided is too scant for the Court to identify this individual.

Second, the Plaintiff renews his request to call NCDPS employees as trial witnesses. He states that he is indigent and asks the Court to fund the witness fees and mileage for these witnesses. The Plaintiff has attached a copy of his prisoner inmate account to support his claim of indigency, and asks the Court to bill him for these costs upon the entry of a favorable verdict.

This Motion will be denied because, as the Court informed Plaintiff in its May 4 Order, the Plaintiff's indigence does not excuse him from paying his own litigation expenses. See (Doc. No. 100).

**IT IS, THEREFORE, ORDERED** that:

1. The Plaintiff's "Response to the Court's May 4, 2021 Order Regarding Plaintiff's Request that Subpoenas and Writs be Issued for Witnesses," (Doc. No. 107), is construed as a renewed Motion to subpoena trial witnesses and it is **GRANTED** in part and **DENIED** in part as stated in this Order.
2. Counsel for Defendants shall arrange for the following inmates' availability to testify at trial via video: Jessie Lee Grooms, offender number 0854714 (Scotland C.I.); Selran Watford, offender number 0916688 (Avery-Mitchell C.I.); and John L. Griffin, Jr., offender number 0603117 (Polk C.I.).
3. The Clerk is further instructed to mail a copy of this Order to: Warden, Scotland Correctional Institution, 22385 McGirts Bridge Road, Laurinburg, NC 28353; Warden, Avery-Mitchell Correctional Institution, 600 Amity Park Road, Spruce Pine, NC 28777; and Warden, Polk Correctional Institution, PO Box 2500, Butner, NC 27509.

**SO ORDERED.**

Signed: June 7, 2021



Graham C. Mullen  
United States District Judge

